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3 **UNITED STATES DISTRICT COURT**
4 **NORTHERN DISTRICT OF CALIFORNIA**

5
6 IN RE: LITHIUM ION BATTERIES
7 ANTITRUST LITIGATION

Case No. 4:13-md-02420-YGR (DMR)

8 **ORDER DENYING NON-PARTY SIMPLO**
9 **TECHNOLOGY US LOGISTIC CO. LTD.'S**
10 **MOTION FOR RELIEF FROM NON-**
11 **DISPOSITIVE PRETRIAL ORDER OF**
12 **MAGISTRATE JUDGE**

Dkt. Nos. 1982

13 On October 6, 2017, Non-Party Simplo Technology US Logistic Co. Ltd. ("Simplo US")
14 filed a Motion for Relief from Non-Dispositive Pretrial Order (Dkt. No. 1982), seeking relief from
15 Magistrate Judge Ryu's order granting plaintiffs' motion to compel compliance with a subpoena
16 on Simplo US for production of certain data from its corporate parent, non-party Simplo Taiwan
17 (Dkt No. 1968).

18 A motion for relief from a non-dispositive order should only be granted when the moving
19 party establishes that the non-dispositive order by the magistrate judge is clearly erroneous or
20 contrary to law. Fed. R. Civ. P. 72; *see Bhan v. NME Hospitals, Inc.*, 929 F.2d 1404, 1414 (9th
21 Cir.1991) ("the magistrate's decision on a nondispositive issue will be reviewed by the district
22 judge under the clearly erroneous standard"); *Barnes & Noble, Inc. v. LSI Corp.*, No. C-11-2709
23 EMC, 2013 WL 841334, at *1 (N.D.Cal. Mar. 6, 2013) (same). "In finding that the magistrate
24 judge's decision is 'clearly erroneous,' the Court must arrive at a definite and firm conviction that
25 a mistake has been committed." *Barnes & Noble*, 2013 WL 841334 at *1 (internal citations and
26 quotations omitted). This standard of review is extremely deferential. *Id.*

27 The Court has considered the papers submitted in support of the motion, and the underlying
28 letter brief in support and hearing transcript. The Court finds that Simplo US has not satisfied its
burden under Rule 72(a) of Federal Rules of Civil Procedure to show that Magistrate Judge Ryu's
order was "clearly erroneous or [] contrary to law."

1 Magistrate Judge Ryu followed the controlling Ninth Circuit *Citric Acid* test. *See In re*
2 *Citric Acid Litig.*, 191 F.3d 1090, 1106-08 (9th Cir. 1999) (“[w]here the relationship is thus such
3 that the subsidiary can secure documents of the parent to meet its own business needs, courts have
4 not permitted the subsidiary to deny control for purposes of discovery by an opposing party.”) The
5 decision indicates that the magistrate judge weighed the competing evidence offered by the parties
6 and found that Simplo US has a legal right to control the data at issue here. The Court finds no
7 indication of clear error.

8 Consequently, Simplo US’s Motion for Relief from Non-Dispositive Order is **DENIED**.

9 **IT IS SO ORDERED.**

10 This order terminates Dkt. No. 1982.

11 Dated: October 19, 2017


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE